

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
(Charlotte Division)

In re: _____) Chapter 11
)
B GSE GROUP, LLC, _____) Case No. 23-30013
)
Debtor. _____)

**APPLICATION OF THE DEBTOR FOR AUTHORITY TO RETAIN
AND EMPLOY RORY D. WHELEHAN, ESQ. AS CHIEF RESTRUCTURING OFFICER**

B GSE Group, LLC (the “Debtor”), by this application (the “Application”), hereby requests an order approving the retention of Rory D. Whelehan, Esq. of the Whelehan Law Firm, LLC (“Whelehan Law”) as the post-confirmation Chief Restructuring Officer for the Debtor in this Chapter 11 case pursuant to sections 327(a) and 330 under title 11 of the United States Code, 11 U.S.C. § 101 *et seq.* (the “Bankruptcy Code”), and Rule 2014 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”). In support of this Application, the Debtor respectfully states as follows:

JURISDICTION

1. This Court has jurisdiction over the Application pursuant to 28 U.S.C. §§ 157 and 1334. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409. This matter is a core proceeding pursuant to 28 U.S.C. § 157(b)(2). The statutory predicates for the relief requested are sections 327(a) and 330 of the Bankruptcy Code and Bankruptcy Rule 2014.

BACKGROUND

2. The Debtor filed a voluntary petition for relief under Chapter 11 (Subchapter V) of the Bankruptcy Code in this Court on January 6, 2023.

3. In its *Plan of Reorganization* (the “Plan”), the Debtor proposes to sell its operating assets and to cease operations. The Debtor has filed a *Motion for Approval of Asset Sale* in conjunction with its proposed Plan.

4. The Plan also contemplates the appointment of Mr. Whelehan as Chief Restructuring Officer upon confirmation to replace the Debtor’s existing management, and to oversee *inter alia* the prosecution of avoidance actions and the wind-down of the company’s affairs generally.

5. In pertinent part, the Plan states:

In his role as CRO, Mr. Whelehan will exercise sole, autonomous decision-making authority over the Reorganized Debtor, the prosecution and/or settlement of Causes of Action, including, but not limited to, Avoidance Actions, and the management of the Reorganized Debtor’s affairs generally until closure of the Chapter 11 Case, subject to the Bankruptcy Court’s supervision. All members, managers, officers, directors, employees, agents, insiders, and holders of Equity Interests in the Debtor and/or the Reorganized Debtor shall be restrained, enjoined, stayed and otherwise barred from exercising dominion or control over, and from taking any action with respect to, the property of the Debtor or the Reorganized Debtor to the exclusion of the comprehensive rights and authority of the CRO as set forth in the Plan. Further, all such persons shall cooperate with the CRO in the performance of his mandate pursuant to the Plan and shall not interfere therewith.

Plan, § 7.3.

RELIEF REQUESTED

6. By this Application, the Debtor seeks specific authority pursuant to section 327(a) of the Bankruptcy Code and Bankruptcy Rule 2014 to retain and employ Mr. Whelehan as Chief Restructuring Officer (“CRO”).

7. The Debtor seeks to retain Mr. Whelehan as CRO because of his extensive experience and knowledge in the fields of debtor-creditor law, bankruptcy, and related litigation.

8. Licensed since 1989, Mr. Whelehan has 34 years of experience in bankruptcy and insolvency matters. He has represented creditors, trustees, committees, debtors, and other constituencies in bankruptcy cases throughout North and South Carolina. He has prosecuted hundreds of avoidance actions seeking the recovery of funds for bankruptcy estates.

9. Mr. Whelehan is certified as a specialist in business and consumer bankruptcy law by the North Carolina State Bar Board of Legal Specialization. He is also certified as a bankruptcy and debtor-creditor law specialist by the South Carolina Supreme Court Commission on CLE and Specialization. Additionally, Mr. Whelehan has served as a court-appointed receiver and is a certified mediator and arbitrator. His professional accolades include, among others, inclusion in the Best Lawyers in America for the last twenty years.

10. Subject to Court approval in accordance with section 330(a) of the Bankruptcy Code, compensation will be payable to Mr. Whelehan as CRO on an hourly basis, plus reimbursement of any actual, necessary expenses that he incurs pursuant to his appointment. Mr. Whelehan's hourly billable rate is \$350.00. Mr. Whelehan's billable rates are subject to periodic adjustment each January 1st to reflect economic and other conditions.

11. The hourly rate to be charged is Mr. Whelehan's standard rate for work of this nature. Mr. Whelehan's rate is set at a level designated to fairly compensate him and to cover Whelehan Law's fixed and routine overhead expenses. It is the policy of Mr. Whelehan and his firm to charge clients in all areas of practice for all other expenses incurred in connection with each client's case. The expenses charged to clients include, among other things, mail and express mail charges, special or hand delivery charges, document processing, photocopying charges, charges for mailing supplies provided by the firm to outside copying services for use in mass mailings, travel expenses, expenses for working meals, computerized research,

transcription costs, as well as non-ordinary overhead expenses. Mr. Whelehan will charge the estate for these expenses in a manner and at rates consistent with charges made generally to Whelehan Law's clients.

12. To the best of the Debtor's knowledge, and except as otherwise disclosed in the annexed declaration of Rory D. Whelehan (the "Whelehan Declaration"), Mr. Whelehan does not hold or represent any interest adverse to the Debtor's estate. Mr. Whelehan's employment is necessary and in the best interests of the Debtor and its estate.

WHEREFORE, the Debtor respectfully requests that the Court authorize the employment and retention of Mr. Whelehan as CRO for the Debtor and grant such other relief as is just and proper.

Dated: Charlotte, North Carolina
May 1, 2023

MOON WRIGHT & HOUSTON, PLLC

/s/ Richard S. Wright

Richard S. Wright (NC Bar No. 24622)
212 N. McDowell Street, Suite 200
Charlotte, North Carolina 28204
Telephone: (704) 944-6560
Facsimile: (704) 944-0380
Counsel for the Debtor